

**REMARKS**

Applicant appreciates the courtesy shown by the Examiner in telephoning to note the lack of a reply to the first Office Action mailed November 21, 2001, which Applicant did not receive until July 2002. In conjunction with a Petition to Revive being filed concurrently herewith, Applicant submits this proposed Response to the first Office Action. The Examiner is authorized to charge any fees associated with the Petition or this Response to Deposit Account 11-0978.

With respect to the formal issues, the Examiner is objecting to the drawings on the ground that they fail to show the folding of the gusseted side panels to form the end panels and the portion of the end panels closed by heat sealing. Applicant must respectfully disagree. Figure 4a taken along line 4a-4a of Figure 4 plainly shows the side panels 25 heat sealed together (note bead 60) to form the end panels, precisely as described in the specification. The gusseted portions 29, 30 of the side panels 25 are also plainly shown in Figures 4, 5, and 5a. Gusseted liners are also well-known in the art, as demonstrated by U.S. Patent No. 5,746,862. Therefore, the gussets need not be shown in excruciating detail in order to allow a skilled artisan to understand or practice the invention, which is all that is required. Consequently, it is believed that the objection is unwarranted and should be withdrawn.

To overcome the objection to the use of the truncated patent numbers on page 8,

Applicant submits a replacement paragraph listing the full patent numbers.

As for the Section 112 rejection made with respect to claim 8, Applicant again emphasizes that the specification clearly discloses and describes the manner in which the end panels are formed. As shown in Figure 1, the side panels are simply folded and then a heat seal bead 60 is formed. The Examiner contends that it is unclear if only the gusseted portion is closed with a heat seal or if the entire end is sealed shut. Beginning at page 4, line 21 and bridging over to page 5, line 1, the specification explains that “[t]he end panels are formed by folded over sections of the gusseted [side] panels with a heat seal bead extending *across* the gussets,” which is precisely the language used in the allegedly objectionable claim. Moreover, the specification clearly describes the technique as “closing the liner 11” (p. 11, lines 1-2), not just the gusseted portion of the side panels 25. Since these teachings are clearly sufficient to enable a skilled artisan to make and use the invention of claim 8, the rejection is improper and should be withdrawn.

The rejection of claims 1, 2, 4-6, 9 and 10 on anticipation grounds over U.S. Patent No. 3,951,284 to Fell is respectfully traversed without amendment. Claim 1 expressly requires a moisture proof liner for an elongated container for use in shipping cargo comprising four elongated panels of impervious film adapted to substantially match the elongated sides, top and bottom of the container and first and second end panels to complete the liner. An access opening is provided along at least one side panel for loading and

unloading cargo, and a closure seals the liner against moisture to protect the cargo. As explained in detail in the Background of the Invention section of Applicant's specification, the need met by the present invention is "providing a system for cargo shipping containers, characterized by a side, rather than end door for transfer of the cargo into and out of the container."

The Fell '284 patent simply does not disclose a liner opening on a side panel corresponding to the top, bottom, or side of an elongated container. Instead, it shows the conventional opening formed in the end panel of the liner, which obviously would not meet the need identified by the Applicant and fulfilled by the invention of claim 1. Accordingly, since claim 1 clearly distinguishes between the end panels and the side panels and plainly describes the location of the opening, it is believed that the '284 patent does not meet the terms of this claim with the requisite strict identity to support an anticipation rejection.

The anticipation rejection of claim 6 over the '284 patent is also deficient. This claim requires a second access opening including a tube in the second side panel substantially opposite the first opening for also loading/unloading the cargo and a second closure for the second opening. Not only does the '284 patent fail to disclose providing a second access opening in a side panel "opposite" to a first opening in a side panel, as claimed, it also fails to even teach or suggest providing openings in two different side panels of the liner. Consequently, it certainly cannot anticipate the invention of dependent claim 6, either.

The Fell '284 patent also cannot anticipate method claim 9 for similar reasons. This claim expressly recites the steps of: (1) providing a liner having four elongated panels of impervious film adapted to substantially match the elongated sides, top and bottom of a shipping container and first and second end panels to complete the liner; and (2) cutting an access opening along at least one side panel adapted for loading and unloading the cargo. Again, the '284 patent merely discloses forming an opening in an end panel, as opposed to a side panel of a liner. Thus, the strict identity required for an anticipation rejection is lacking.

Next, claims 3, 7, and 11 are rejected on "obviousness" grounds over the combination of the Fell '284 patent with U.S. Patent No. 5,028,197 to Krein et al. As explained above, the Fell '284 patent fails to disclose forming an access opening in a side panel, as compared to an end panel. Likewise, the Krein et al. patent only discloses providing an access opening in an end panel. Thus, it does not supply the teaching missing from the '284 patent to Fell et al. Accordingly, it is believed that claims 1 and 9 are directed to non-obvious subject matter over these references, which also places the corresponding dependent claims in condition for allowance.

In summary, Applicant has addressed all issues raised in the first Office Action. Thus, upon granting of the Petition to Revive and reinstatement of the application to pending status,

S.N. 09/684,032

it is believed that the issuance of the Notice of Allowance is in order.

Respectfully submitted,

**KING AND SCHICKLI, PLLC**



Andrew D. Dorisio  
Registration No. 41,713

247 North Broadway  
Lexington, Kentucky 40507  
(859) 252-0889

CERTIFICATE OF MAILING

I hereby certify that this correspondence  
is being deposited with the United States Postal  
Service as first class mail in an envelope  
addressed to: Assistant Commissioner for Patents,  
Washington, D.C. 20231, on July 25, 2002

Date 1/25/02 

**RECEIVED**

**AUG 01 2002**

**OFFICE OF PETITIONS**

**VERSION SHOWING CHANGES MADE**

Please replace the paragraph beginning on line 16 of page 7 with the following:

-- With reference now to the drawings, and in particular to Figure 1, a conventional rail car 10 is illustrated for purposes of disclosure of one use for a moisture proof liner 11 fabricated in accordance with the principles of the present invention. As illustrated in Figure 1, the liner 11 is in the initial stages of being erected inside the container 10. As set forth in the prior U.S. Patent[s '084, '339 and '733] Nos. 4,671,733, issued June 9, 1987, 4,863,339, issued September 5, 1989 and U.S. Patent 5,059,084, issued October 22, 1991 owned by the assignee of the present invention, a pair of upstanding manifolds 15, 16 are attached to vacuum hoses 15a, 16a to corresponding vacuum pumps or the intake side of blowers 15b, 16b. As the container 10 is evacuated on the inside through the arrays of orifices 17, 18 respectively (see Figure 2), the liner 11 is progressively lifted into place corresponding to the walls W of the container 10 (note the flow arrows in Figure 2, and the lift arrows of the liner 11). Retainer clamps 19 may be placed to extend around the doorway of the container in order to hold this section in place during the initial erection process. Also, positive pressure can be generated inside the liner 11 by a blower 20 positioned on loading dock D, if desired or necessary, especially for initial lift assist. --

On page 9, at line 6, please replace the first full paragraph with the following:

-- First and second end panels 34, 35 complete the liner 11 and these are formed by

S.N. 09/684,032

folding over the gusseted end sections and then heat seal[ed]ing, as will be explained later in detail.— —